IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Om Prakash. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 658/2006
against the order dated 28-3-2006 passed
by the Judicial Magistrate, Padampur in
Criminal Case No. 271/2005.

...

Date of Order: October 17, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. R.C. Joshi, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

This criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 28-3-2006 passed by the Judicial Magistrate, Padampur (for short, "the trial Court" hereinafter) in Criminal Case No.271/2005, whereby the trial Court dismissed the application filed by the petitioner under Section 451 of the Code.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Carefully perused the order impugned.

It is contended by the learned counsel for the

petitioner that the alleged Sisam tress were cut by the petitioner from his own agricultural land on the permission granted by the Tehsildar (Revenue), Padampur dated 15-9-2005, for which the petitioner had already deposited the amount for the permission vide Book No. 439862, receipt No. 0073. He has placed on record a photo stat copy of the receipt dated 15.9.2005, from a perusal of which it appears that the amount mentioned therein has been received by the office of the Tehsildar (Revenue), Padampur for according the permission granted to the petitioner for cutting the trees from his own agricultural land. Petitioner had also filed an affidavit before the trial Court and a copy of which has been placed on record. Learned counsel has placed on record a copy of the Notification dated 23-10-2002, whereby the existing expression "forest produce" given in the Notification dated 10-1-1991 has been substituted by the expression "timber." In the instant case, it is yet to be established as to whether the wood in question is a "forest produce" or not.

Keeping in view the fact that the said trees were cut by the petitioner from his own agricultural land for his personal use after having obtained permission from the Tehsildar (Revenue), Padampur by deposit the requisite amount of fee, in my view, no useful purpose would be served in allowed the wood lying under the open sky at the police station for indefinite

period. Therefore, in order to secure the ends of justice, the wood in question deserves to be released on Supurdginama to the present petitioner.

In the result, the criminal miscellaneous petition is allowed. The order impugned dated 28-3-2006 passed by the trial Court in Criminal Case No. 271/2005 is set aside and the trial Court is directed to release the wood in question on Supurdginama to the petitioner on furnishing a personal bond in the sum of Rs.10,000/- with a surety in the like amount to the satisfaction of the trial Court.

(H.R. PANWAR), J.

mcs